

HOUSE NO. 23

By Mr. Casey of Winchester, petition of Paul C. Casey and Stephen Stat Smith relative to ice rinks in the Commonwealth. Bonding, Capital Expenditures and State Assets.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO ICE RINKS IN THE COMMONWEALTH.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Notwithstanding section 54 of chapter 7 of the
2 General Laws, the division of capital asset management and main-
3 tenance, on behalf of and in consultation with the department of
4 conservation and recreation, is hereby authorized, notwithstanding
5 sections 40E to 40I, inclusive, of chapter 7 of the General Laws
6 and using such competitive proposal process as the commissioner
7 of said division deems necessary or appropriate, to lease and enter
8 into other agreements, for terms not to exceed 20 years, to or with
9 1 or more offerors who participate in that process so as to provide
10 for the continued use, operation, maintenance, repair and
11 improvement of the Flynn Memorial Rink in Medford and the
12 land and appurtenances associated therewith.

13 There shall be an option for renewal or extension for operations
14 and maintenance services not exceeding an additional 5 years.
15 Such renewal or extension shall be at the discretion of the division
16 of capital asset management and maintenance in accordance with
17 the original contract terms and conditions or contract terms and
18 conditions more favorable to the state. All leases must contain a
19 provision that requires the lessee to carry comprehensive general
20 liability insurance with the commonwealth named as a co-insured,
21 protecting the commonwealth against all personal injury or prop-
22 erty damage within the rink and on the land during the term of the
23 lease.

24 Such leases and other agreements shall be on terms acceptable
25 to the commissioner of the division of capital asset management
26 and maintenance after consultation with the commissioner of the
27 department of conservation and recreation, and, notwithstanding
28 any general or special law to the contrary, shall provide for the
29 lessees to manage, operate, improve, repair and maintain the prop-
30 erties. Any such leases or other arrangements requiring capital
31 improvements to be made to any buildings or surface areas shall
32 include a description of the required capital improvements and, at
33 a minimum, performance specifications. Such leases and other
34 agreements shall provide that any benefits to the commonwealth
35 and the costs of improvements and repairs made to the properties
36 provided by the tenants or the recipients of the properties shall be
37 taken into account as part of the consideration for such leases or
38 other agreements. The division, in consultation with the depart-
39 ment, shall structure each lease or other agreement to minimize
40 disturbance of the current rights of any tenants who may currently
41 use any part of the rink or adjoining facilities, whether under a
42 written lease or other arrangement. All consideration received
43 from the leases or other agreements shall be payable to the depart-
44 ment of conservation and recreation for deposit into the General
45 Fund. The lessees of said properties shall bear all costs deemed
46 necessary or appropriate by the commissioner of the division of
47 capital asset management and maintenance for the transaction,
48 including without limitation, all costs for legal work, survey, title
49 and the preparation of plans and specifications.

1 SECTION 2. The division, in consultation with the department,
2 when evaluating proposals, shall give preference to a youth-ori-
3 ented, non-profit, long-standing tenant in the municipality where
4 the rink is located or cities and towns adjacent thereto, provided
5 that the proposal complies with the ice time allocation guidelines
6 outlined in chapter 149 of the acts of 2004.

1 SECTION 3. The division of capital asset management and
2 maintenance, in consultation with and on behalf of the department
3 of conservation and recreation, shall solicit proposals through a
4 request for proposals which shall include key contractual terms
5 and conditions to be incorporated into the contract, including but

6 not limited to (1) a comprehensive list of all rinks operated by the
7 responsive bidder or offeror in the last four years, (2) other facili-
8 ties management or experience of the responsive bidder or offeror,
9 (3) other skating or hockey management experience of the respon-
10 sive bidder or offeror, (4) a residential discount program,
11 (5) reservation policies, (6) proposed reasonable rates that will
12 ensure continued public access, (7) required financial audits, (8)
13 policies to encourage use of the rink by persons of all races and
14 nationalities, (9) safety and security plans, (10) seasonal opening
15 and closing dates, (11) hours of operation and (12) how the oper-
16 ator will satisfy the following ice time allocation guidelines. Ice
17 time at this rink shall be allocated to user groups in the following
18 priority order: general public skating; non-profit youth groups;
19 school hockey; youth groups other than non-profit youth groups;
20 and adult organizations or informal groups. Ice time may be allo-
21 cated at the discretion of the operator, provided that general public
22 skating shall be booked at a minimum of 12 hours per week, with
23 a range of times and days which reasonably allow for public
24 skaters of all ages to participate in some public skating sessions.
25 Every effort shall be made to balance the ice allocation needs of
26 long-established youth organizations and newly formed youth
27 organizations in a manner that provides equal opportunity and
28 equal access for youths of each gender.

29 The inspector general shall review and approve any request for
30 proposal issued by the division before issuance.

31 The failure of any city or town to apply for pre-qualification as
32 set forth below shall not prohibit that city or town from bidding
33 under this section.

34 Before the division, in consultation with the department, sends
35 out any request for proposals under this section, the division shall
36 hold open a pre-qualification period of at least one month for
37 cities and towns, or a partnership of municipalities which share
38 geographic boundaries as long the subject rink is located within
39 the geographic area of the municipalities comprising the partner-
40 ship, that desire to bid on said rink. Any city or town or such part-
41 nership of municipalities that desires to lease this rink may submit
42 materials for prequalification. Such pre-qualification may include,
43 but may not be limited to, said city's or town's or said partner-
44 ship's ability to finance the capital improvements determined to be

45 necessary at this rink by the division and to manage, operate and
46 maintain the properties. The division, in consultation with the
47 department, shall determine whether a city or town or partnership
48 is prequalified within 15 days of the end of the prequalification
49 period. If a city or town or partnership is determined to be pre-
50 qualified, that city or town or partnership shall be awarded the
51 lease for the rink under the terms and conditions set forth in sub-
52 section (a) and the first paragraph of subsection (b). If a city or
53 town or partnership is determined to be pre-qualified, the city or
54 town or partnership shall pay nominal consideration for a lease
55 subject to the required capital improvements, performance specifi-
56 cations, and other prequalification requirements and terms of the
57 division and submitted proposal. The length of such lease shall be
58 determined between the division and said city or town.

1 SECTION 4. It shall be a mandatory term of any request for
2 proposals issued by the commissioner and of any contract entered
3 into by the commonwealth with any party regarding the subject
4 matter of this section that any party which has entered into a con-
5 tract pursuant to this section with the commonwealth shall require,
6 in order to maintain stable and productive labor relations and to
7 avoid interruption of the operation of the rinks and to preserve the
8 safety and environmental conditions of those rinks, that all
9 employees currently working on the operation and maintenance of
10 the rink be offered employment by any party entering into a con-
11 tract pursuant to this section. Upon the execution of any agree-
12 ments authorized by this section, the department of conservation
13 and recreation shall reassign or relocate those employees who do
14 not accept employment with the lessor, to comparable positions
15 within the department subject to applicable collective bargaining
16 agreements.

1 SECTION 5. The provisions of any general or special law or
2 rule or regulation relating to the advertising, bidding or award of
3 contracts, to the procurement of services or to the construction
4 and design of improvements shall not be applicable to any
5 selected offeror which is awarded a contract pursuant to this
6 section, except as provided in this section.